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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,603	11/16/2001	Howard A. Hardee	29002-11270	4747

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LEYDIG, VOIT & MAYER, LTD.  
(SEATTLE OFFICE)  
TWO PRUDENTIAL PLAZA  
SUITE 4900  
CHICAGO, IL 60601-6780

EXAMINER

WILKENS, JANET MARIE

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/998,603

Applicant(s)

HARDEE ET AL.

Examiner

Janet M. Wilkens

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on August 17, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 1, it is unclear what seam the first sheet of material is attached along, since sheets do not inherently have to have seams and no construction of such a feature has been disclosed in the claim. Furthermore, it appears that it is the formed corner construction, i.e. the attaching of portions of the sheet together, which forms the seam. For claim 5, the phrase "turning the inside out" is confusing and it is unclear whether or not the "an interior portion" is the same interior portion claimed previously. For claim 15, it is misdescriptive to state that the sealing tape is attached over the attachment of the first and second sheets of material. The tape is attached over attached portions of the first sheet which together form a seam and a corner.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki in view of Collins, III. Kubacki teaches a tent (Fig. 1) having a substantially waterproof tub floor (17), the floor having four corners. For claim 22, Kubacki fails to teach exactly how the corners are formed. Collins teaches a fabric structure with corners (see Figs. 3,4), each are formed by attaching portions of adjacent sidewalls together via stitching and then turning the fabric inside out so that the seams are hidden from view (column 2, lines 29-39). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the floor corners of Kubacki in this manner, since this type of corner construction is well known in the art, as shown by Collins, and the corners of Kubacki obviously need to be formed in some manner, the manner disclosed by Collins satisfying this need and providing the advantage of inside (and not noticeable) stitching lines.

Claims 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kubacki in view of Collins, III as applied to claims 22 and 23 above, and further in view of Dehner. As stated above, Kubacki in view of Collins teaches the limitations of claims 22 and 23, including a tent floor with corners. For claims 24-27, Kubacki in view of Collins fails to teach a waterproof sealing tape attached to the interior portions of the corners. Dehner teaches the use of waterproof sealing tape (66) for covering a seam (see Fig. 2) to prevent unwanted water penetration there through and to provide added strength there at. The tape is heat bonded/welded to the seam (see column 4, lines 11-18). It would have been obvious to one of ordinary skill in the art at the time of the invention to add waterproof sealing tape to the seams of Kubacki in view of Collins,

such as is taught by Dehner, to prevent water from entering the sheet through those points and to strengthen to the sheet at the seams.

For claim 25, although Kubacki in view of Collins fails to teach what type of fabric the waterproof floor is made of and the tape of Dehner is disclosed to be nylon, plastic/other types of plastic, including polyethylene, for the use in waterproof structures is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to make the floor and tape out of polyethylene, depending on the desired need of the person constructing the tent, e.g. depending on the materials readily available, economic reasons, personal preferences, etc.

#### ***Allowable Subject Matter***

Claim 1 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action. (The allowable subject matter being the specific method of constructing the fabric corner claimed; the method comprised of attaching sections of a first sheet of fabric material so as to form a corner with a seam, extending a second sheet of fabric material over an interior portion of the seam and then turning the corner inside out to form an inverted corner wherein the second sheet extends over an exterior portion of the seam.)

Claims 2-21 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

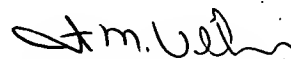
Applicant's arguments, with respect to the rejections of claims 1-27 have been fully considered and are persuasive. Therefore, the rejections have been withdrawn. However, upon further consideration, a new grounds of rejection has been made for claims 22-27 using Kubacki in view of Collins, III and (for claims 24-27) further in view of Dehner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
November 12, 2004

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637